

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider the Annual Revenue Requirement Determination of the California Department of Water Resources.

FILED  
PUBLIC UTILITIES COMMISSION  
JULY 20, 2006  
SAN FRANCISCO OFFICE  
RULEMAKING 06-07-010

**ORDER INSTITUTING RULEMAKING****Summary**

This Order opens a new Rulemaking to consider issues related to the annual revenue requirement determination of the California Department of Water Resources (DWR).

**Background**

This proceeding is a forum to address one of the lingering effects of California's energy crisis. In October 2000, The Utility Reform Network (TURN) filed a Petition for Modification of Resolution E-3527, which became Application (A.) 00-10-028. The Petition for Modification addressed the issue of the timing of the end of a "rate freeze" then in effect for electric utilities. In November 2000, Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) filed applications (A.00-11-056 and A.00-11-038) seeking, among other things, an end to the rate freeze. These were followed by the applications of San Diego Gas & Electric Company (SDG&E) and SCE in A.01-06-039 and A.01-06-044 for the Commission to approve the servicing agreements that the utilities had entered into with DWR.

A.00-10-028, A.00-11-056, and A.00-11-038 were consolidated in Decision (D.) 00-12-067, and the consolidated proceeding has generally been referred to as A.00-11-038 et al. Through the energy crisis and beyond, this consolidated proceeding, as well as A.01-06-039 and A.01-06-044, addressed numerous issues related to the energy crisis and its effects, including consideration and allocation of the annual revenue requirement determination of DWR, and the servicing agreements with DWR. Over time, most of the other issues have been resolved, but DWR continues to need to submit its annual revenue requirement determination to the Commission, as required by the 2002 Rate Agreement between DWR and the Commission, approved in D.02-02-051. The Commission needs to allocate the DWR revenue requirement among the customers of Commission-regulated electric utilities, as the Rate Agreement requires the Commission to set Power Charges and Bond Charges sufficient to recover DWR's revenue requirement.

The consolidated proceeding has been the forum in which issues relating to DWR's annual revenue requirement determination have been addressed, up through the allocation of DWR's 2006 revenue requirement. The consolidated proceeding has also been the forum for addressing the servicing order between PG&E and DWR, while A.01-06-039 and A.01-06-044 have addressed the servicing agreements with DWR, SDG&E and SCE.

### **Next Steps**

Primarily for housekeeping reasons, we have decided to close the three consolidated applications, as well as A.01-06-039 and A.01-06-044. They have now been open for nearly six years and have addressed an extraordinary range of issues, and the service list is both large and outdated. Accordingly, we are opening a new proceeding to provide a forum for addressing issues related to

DWR's annual revenue requirement determination and the related servicing agreements.

One issue in the consolidated proceeding remains unresolved: allocation of the benefits related to the Williams gas contract. This issue was raised and litigated in conjunction with DWR's 2006 revenue requirement, but the portion of the draft decision addressing it was split off and deferred from the decision addressing the 2006 revenue requirement. (D.05-12-010, pp. 3, 12.) We intend to resolve that issue in the consolidated proceeding, and once it is resolved, we will close the three consolidated applications. No other issues will be addressed in the consolidated proceeding. There are also unresolved issues in the consolidated proceeding about the size and form of the deposit requirement that an electric service provider must have, and the reentry fee that arose out of D.03-12-015. These issues and any other issues relating to DWR's annual revenue requirement, the servicing agreements, and the deposit requirement and reentry fee will be addressed in this Rulemaking.

### **Preliminary Scoping Memo**

The purpose of this Rulemaking is to consider the annual revenue requirement filing of DWR and related issues concerning the servicing agreements. The Commission is required to accept DWR's determination of the annual requirement once DWR has determined that the revenue requirement is just and reasonable. However, the Commission determines how to recover the revenue requirement from the customers of the investor-owned utilities. As part of this process, the Commission allocates the DWR revenue requirement among the service territories of the several investor-owned utilities. We will perform this allocation and set corresponding Power Charges and Bond Charges in this Rulemaking.

As prescribed in a series of decisions in Rulemaking (R.) 02-01-011, we have assigned a share of ongoing DWR power costs to designated Direct Access (DA) and Departing Load (DL) customers. These DWR power costs are a component of the “Cost Responsibility Surcharge” (CRS) that is assigned to designated DA and DL customers in accordance with the requirements of Pub. Util. Code § 366.1(d). We have previously utilized data developed in DWR revenue requirement filings in developing the calculations necessary to derive the applicable CRS obligations of designated DA and DL customers residing within each of the investor-owned utilities’ service territories. We anticipate that data used to derive CRS obligations associated with DWR revenue requirements for 2007 and subsequent years will continue to be developed and utilized in a similar manner, with the record in this proceeding providing information that would be used by the utilities in preparing their submissions for determination of the DA/DL CRS, in coordination with R.02-01-011 (or successor proceedings or processes).

### **Category of Proceeding**

The Commission’s Rules of Practice and Procedure (Rules) require that an order instituting rulemaking preliminarily determine the category of the proceeding and the need for hearing.<sup>1</sup> As a preliminary matter, we determine that this proceeding is ratesetting because our consideration, approval, and allocation of the DWR revenue requirement will impact respondents’ rates.<sup>2</sup>

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<sup>1</sup> Rule 6(c)(2).

<sup>2</sup> Rule 5(c).

While we hope that we will not need them, evidentiary hearings may be necessary.

As provided in Rule 6(c)(2), any person who objects to the preliminary categorization of this rulemaking as ratesetting or to the preliminary hearing determination, shall state its objections in a prehearing conference (PHC) statement, if one is filed, or at the PHC. After the PHC in this matter, the assigned Commissioner will issue a scoping ruling making a final category determination; this final determination is subject to appeal as specified in Rule 6.4.

### **Schedule**

DWR is expected to submit its 2007 revenue requirement determination in August 2006. Based on an August 2006 submission date, a Commission decision on the allocation of that revenue requirement determination should be issued no later than December 2006 to comply with the 120-day time limit specified in the Rate Agreement. A PHC will be held shortly after DWR's submission of its 2007 revenue requirement determination to identify issues and establish a more detailed schedule for this portion of this proceeding.

### **Parties and Service List**

PG&E, SCE, and SDG&E are respondents to this Rulemaking, and will appear on the official service list. This order will be served on the service list of the consolidated proceeding (A.00-11-038 et al.), R.02-01-011, A.01-06-039, and A.01-06-044. Interested parties have 20 days from the date of mailing of this

decision to submit a request to be added to the service list for this proceeding,<sup>3</sup> or may request to be added at the PHC. The assigned Commissioner or Administrative Law Judge may address issues relating to party status at the PHC.

Any party interested in participating in this Rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in Los Angeles at (213) 649-4782 or in San Francisco at (415) 703-2074, (866) 836-7875 (TTY – toll free) or (415) 703-5282 (TTY), or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

### ***Ex Parte* Communications**

This ratesetting proceeding is subject to Pub. Util. Code § 1701.3(c) (which prohibits *ex parte* communications unless certain requirements are met) and Rules 7(c) and 7.1. An *ex parte* communication is defined as “any oral or written communication between a decisionmaker and a person with an interest in a matter before the commission concerning substantive, but not procedural issues, that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter.” (Pub. Util. Code § 1701.1(c)(4).) Commission rules further define the terms “decisionmaker” and “interested person” and only off-the-record communications between these two are “*ex parte* communications.”<sup>4</sup>

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<sup>3</sup> Any person or representative of an entity interested in monitoring or participating in this Rulemaking should send a request to the Commission's Process Office, 505 Van Ness Avenue, San Francisco, California 94102 (or [ALJ\\_Process@cpuc.ca.gov](mailto:ALJ_Process@cpuc.ca.gov)) asking that his or her name be placed on the official service list for this proceeding.

<sup>4</sup> See Rules 5(e), 5(f), and 5(h).

### **Findings of Fact**

1. DWR has historically submitted its annual revenue requirement determination for consideration in A.00-11-038 et al.
2. The record in A.00-11-038 et al. has grown very large, and the service list is outdated.
3. With the exception of the allocation of benefits associated with a Williams gas contract, the deposit requirement and reentry fee, and possible changes to the servicing agreements between the utilities and DWR, all issues in A.00-11-038 et al. have been resolved.

### **Conclusions of Law**

1. An open proceeding is necessary for the Commission to address the allocation of DWR's annual revenue requirement determination, and related issues that may arise.
2. A new proceeding would be preferable to continued use of A.01-06-039, A.01-06-044, and A.00-11-038 et al. for allocation of future revenue requirements and related issues.
3. The allocation of benefits associated with the Williams gas contract should be addressed in A.00-11-038 et al.
4. After resolution of the issues related to the allocation of the Williams gas contract, A.00-11-038 et al. should be closed.

## **O R D E R**

### **IT IS ORDERED** that:

1. This Order Instituting Rulemaking is opened to consider future revenue requirement determinations submitted by the California Department of Water Resources, and related issues.

2. Issues relating to the allocation of the Williams gas contract will remain in Application 00-11-038 et al.

3. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are respondents.

4. This proceeding is categorized as ratesetting, and requiring hearings.

5. Objections to the preliminary categorization of this Rulemaking as ratesetting, or to the preliminary determination that hearings are necessary, shall be made in a prehearing conference (PHC) statement (if filed) or at the PHC.

6. *Ex parte* communications in this Rulemaking are governed by Pub. Util. Code § 1701.3(c) and Rules 7(c) and 7.1 of the Commission's Rules of Practice and Procedure.

This order is effective today.

Dated July 20, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners